

TITLE 18. STATE BOARD OF EQUALIZATION

ADOPT REGULATIONS 2303, 3020, 3021, 3301, 3302, 3501, 3502, 4105, 4901 and 4902, and
AMEND REGULATIONS 1124, 1177, 1178, 1248, 1271, 1332, 1335, 1422, 1470, 2250, 2255,
2343, 2431, 2432, 2500, 2570, 4026, 4027, and REPEAL REGULATIONS 2344, 2345, and 2346
PERTAINING TO SPECIAL TAXES LAWS

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, section 25299.42 of the Health and Safety Code, and sections 8251, 9251, 30451, 32451, 40171, 41128, 43501, 45851, 46601, 50152, 55301, and 60601 of the Revenue and Taxation Code, proposes to **adopt** Regulations 4901 and 4902, in Title 18, Division 2, Chapter 9.9, of the California Code of Regulations, relating to Records and Relief from Liability which will apply general record keeping and the relief from liability requirements to the sixteen separate tax and fee laws (Special Tax Laws) under which the Board collects twenty-five separate taxes and fees;¹ also, in Title 18, Division 2 of the California Code of Regulations to **adopt** Regulations 2303 (Relief from Liability—Energy Resources Surcharge Law), 3020 (Records—Hazardous Substances Tax Law), 3021 (Relief from Liability—Hazardous Substances Tax Law), 3301 (Records—Integrated Waste Management Fee Law), 3302 (Relief from Liability—Integrated Waste Management Fee Law), 3501 (Records—Fee Collection Procedures Law), 3502 (Relief from Liability—Fee Collection Procedures Law), and 4105 (Relief from Liability—Cigarette and Tobacco Products Tax Law); to **amend** existing Regulations 1124 (Relief from Liability—Motor Vehicle Fuel Tax Law), 1177 (Records of Aircraft Jet Fuel Dealer—Motor Vehicle Fuel Tax Law), 1178 (Records—Motor Vehicle Fuel Tax Law), 1248 (Relief from Liability—Underground Storage Tank Maintenance Fee Law), 1271 (Records—Underground Storage Tank Maintenance Fee Law), 1332 (Records—Use Fuel Tax Law), 1335 (Relief from Liability—Use Fuel Tax Law), 1422 (Relief from Liability—Diesel Fuel Tax Law), 1470 (Records—Diesel Fuel Tax Law), 2250 (Relief from Liability—Oil Spill

¹ Alcoholic Beverage Tax, California Constitution Article XX, Section 22; Revenue and Taxation Code Sections 32001-32557; Ballast Water Management Fee, Public Resources Code Sections 71200-71271; Revenue and Taxation Code Sections 44000-44008, 55001-55381; Childhood Lead Poisoning Prevention Fee, Health and Safety Code Section 105310; Revenue and Taxation Code Sections 43001-43651; Cigarette and Tobacco Products Tax, California Constitution Article XIII B; Revenue and Taxation Code Sections 30001-30481; Diesel Fuel Tax, Revenue and Taxation Code Sections 60001-60709; Emergency Telephone Users Surcharge, Revenue and Taxation Code Sections 41001-41176; Energy Resources Surcharge, Revenue and Taxation Code Sections 40001-40216; Hazardous Substances Tax, Revenue and Taxation Code Sections 43001-43651; Integrated Waste Management Fee, Revenue and Taxation Code Sections 45001-45984; Motor Vehicle Fuel Tax, California Constitution Article XIX; Revenue and Taxation Code Sections 7301-8526; Natural Gas Surcharge, Public Utilities Code Sections 890-900; Revenue and Taxation Code Sections 55001-55381; Occupational Lead Poisoning Prevention Fee, Health and Safety Code Section 105190; Revenue and Taxation Code Sections 43001-43651; Oil Spill Response, Prevention, and Administration Fees, Revenue and Taxation Code Sections 46001-46751; California Tire Fee, Public Resources Code Sections 42860-42895; Revenue and Taxation Code Sections 55001-55381; Underground Storage Tank Maintenance Fee, Revenue and Taxation Code Sections 50101-50162; Use Fuel Tax, Revenue and Taxation Code Sections 8601-9355.

Response, Prevention and Administration Fees Law), 2255 (Records—Oil Spill Response, Prevention and Administration Fees Law), 2343 (Records—Energy Resources Surcharge Law), 2431 (Records—Emergency Telephone Users Surcharge Law), 2432 (Relief from Liability—Emergency Telephone Users Surcharge Law), 2500 (Records—Alcoholic Beverage Tax Law), 2570 (Relief from Liability—Alcoholic Beverage Tax Law), 4026 (Records—Cigarette and Tobacco Products Tax Law), 4027 (Manufacturer's Records and Monthly Report—Cigarette and Tobacco Products Tax Law); and to **repeal** Regulations 2344 (Microfilm Records—Energy Resources Surcharge Law), 2345 (Records Prepared by Automated Data Processing Systems—Energy Resources Surcharge Law), and 2346 (Records Retention—Energy Resources Surcharge Law).

A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on Wednesday, February 5, 2003. At the hearing, any person interested may present statements or arguments orally. The Board will consider written statements or arguments if received by February 5, 2003.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Property and Special Taxes Department, in addition to administration of Property Tax, administers the Special Tax Laws. Many of these laws contain similar administrative provisions. Proposed Regulations 4901 and 4902 concerning record keeping requirements and relief from liability under specified circumstances, clarify the law and make consistent the requirements on taxpayers among the various Special Tax Laws programs. Under each of the Special Tax Laws existing regulations, the proposed administrative regulations in new Chapter 9.9 will be cross-referenced.

Discussion of Record Keeping Requirements (Proposed Regulation 4901) and Relief from Liability (Proposed Regulation 4902)

The Property and Special Taxes Department believes that it would ease the taxpayers' burdens of compliance with multiple tax laws if the administrative provisions in each of the Special Tax Laws administered by the Board imposed the same or substantially the same requirements. Thus, if the statutory record keeping requirements are the same for each of the Special Tax Laws administered, then the regulations clarifying those requirements should also be substantially the same. For that reason, the proposal adopts section 4901 on Records and section 4902 on Relief from Liability, which will apply to all of the Special Tax Laws programs in the Property and Special Taxes Department, listed on the chart attached to this notice as Exhibit A. The language of section 4901 is substantially the same as the Sales and Use Tax Regulation section 1698 (Records) and the language of section 4902 is substantially the same as the Sales and Use Tax Regulation section 1705 (Relief from Liability). Not only will the proposed changes enhance consistency among the tax programs as currently administered by the Board, they will facilitate maintenance of consistent and clear regulations in the future. When future regulatory changes are made to the Sales and Use Tax regulations concerning record keeping or relief from liability, the same changes can be made by amending the two Special Tax Laws

administrative regulations, instead of amending sixteen record keeping regulations and sixteen relief from liability regulations.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed regulations do not impose a mandate on local agencies or school districts. Further, the Board has determined that the regulations will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings on Federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the State Board of Equalization makes an initial determination that the adoption of the regulations will clarify the application of the Special Tax Laws and will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other state.

The adoption of the regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The proposed regulations may affect small business."

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

FEDERAL REGULATIONS

The proposed Regulations have no comparable federal regulations.

AUTHORITY

Government Code section 15606(a), Health and Safety Code section 25299.42, and Revenue and Taxation Code sections 8251, 9251, 30451, 32451, 40171, 41128, 43501, 45851, 46601, 50152, 55301, and 60601.

REFERENCES

Revenue and Taxation Code sections 7657.1, 8301-8304, 8879, 9253, 9254, 30284, 30453, 30454, 32257, 32551, 32453, 40104, 40172-40175, 41056, 41073, 41098, 41129.30,

43159, 43502, 45157, 45852, 46158, 46602, 46603, 50112.5, 50153, 55045, 55302, 60210, and 60604-60606.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. M. Judith Nelson, Tax Counsel, telephone (916) 324-2641, fax (916) 323-3387, email Judy.Nelson@boe.ca.gov, or by mail at State Board of Equalization, Attn. M. Judith Nelson, MIC:82, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, email Diane.Olson@boe.ca.gov or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, email Karen.Anderson@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared a statement of reasons and an underscored version of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>. Requests for copies should be addressed to Ms. Diane G. Olson, Regulations Coordinator, at P.O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080, telephone (916) 322-9569.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It also will be available for your inspection at 450 N Street, Sacramento, CA 94279-0080.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for 15 days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for 15 days after the date on which the modified regulation is made available to the public.